

JS 44 (Rev. 06/17)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

MARY ANN HRINKO

(b) County of Residence of First Listed Plaintiff LACHAWANNA CO.
(EXCEPT IN U.S. PLAINTIFF CASES) PA

(c) Attorneys (Firm Name, Address, and Telephone Number)

Joseph F. Schwartz, Esq.
42 W. LANCASTER AVE. ARDMORE, PA 19003
610.658.1900

DEFENDANTS

MARRIOTT INTERNATIONAL, INC

County of Residence of First Listed Defendant MONTGOMERY CO.
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED. MD

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☒ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|----------------------------|---|----------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input checked="" type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT		TORTS		FORFEITURE/PENALTY		BANKRUPTCY		OTHER STATUTES	
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act	<input type="checkbox"/> 375 False Claims Act	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability				<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 400 State Reapportionment	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability					<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 410 Antitrust	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine					<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 430 Banks and Banking	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability					<input type="checkbox"/> 450 Commerce	<input type="checkbox"/> 450 Commerce	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 350 Motor Vehicle					<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 460 Deportation	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability					<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 160 Stockholders' Suits	<input checked="" type="checkbox"/> 360 Other Personal Injury					<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 480 Consumer Credit	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice					<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 490 Cable/Sat TV	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 195 Contract Product Liability	<input type="checkbox"/> 195 Contract Product Liability						<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 850 Securities/Commodities/Exchange	<input type="checkbox"/> 850 Securities/Commodities/Exchange
<input type="checkbox"/> 196 Franchise	<input type="checkbox"/> 196 Franchise						<input type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 890 Other Statutory Actions	<input type="checkbox"/> 890 Other Statutory Actions
							<input type="checkbox"/> 891 Agricultural Acts	<input type="checkbox"/> 891 Agricultural Acts	<input type="checkbox"/> 891 Agricultural Acts
							<input type="checkbox"/> 893 Environmental Matters	<input type="checkbox"/> 893 Environmental Matters	<input type="checkbox"/> 893 Environmental Matters
							<input type="checkbox"/> 895 Freedom of Information Act	<input type="checkbox"/> 895 Freedom of Information Act	<input type="checkbox"/> 895 Freedom of Information Act
							<input type="checkbox"/> 896 Arbitration	<input type="checkbox"/> 896 Arbitration	<input type="checkbox"/> 896 Arbitration
							<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision	<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision	<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
							<input type="checkbox"/> 950 Constitutionality of State Statutes	<input type="checkbox"/> 950 Constitutionality of State Statutes	<input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

18 U.S.C. SECTION 1332

Brief description of cause:

FALL - Bad the high per disability standards

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

10-17-18

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

WBUNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**18****4487**

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 634 Laurel St. Dickson City, PA 18519Address of Defendant: 10400 Fernwood Rd. Bethesda, MD 20817Place of Accident, Incident or Transaction: 1212 Pacific Ave, Atlantic City, NJ

RELATED CASE, IF ANY:

Case Number _____ Judge _____ Date Terminated _____

Civil cases are deemed related when Yes is answered to any of the following questions:

- | | | |
|--|------------------------------|--|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is / ☒ is not related to any case now pending or within one year previously terminated action in this court except as noted above.DATE 10/18/18

Attorney-at-Law / Pro Se Plaintiff

Attorney I D # (if applicable)

CIVIL: (Place a ✓ in one category only)

A. Federal Question Cases.

- ☐ 1. Indemnity Contract, Marine Contract, and All Other Contracts
- ☐ 2. FELA
- ☐ 3. Jones Act-Personal Injury
- ☐ 4. Antitrust
- ☐ 5. Patent
- ☐ 6. Labor-Management Relations
- ☐ 7. Civil Rights
- ☐ 8. Habeas Corpus
- ☐ 9. Securities Act(s) Cases
- ☐ 10. Social Security Review Cases
- ☐ 11. All other Federal Question Cases
(Please specify) _____

B. Diversity Jurisdiction Cases:

- ☐ 1. Insurance Contract and Other Contracts
- ☐ 2. Airplane Personal Injury
- ☐ 3. Assault, Defamation
- ☐ 4. Marine Personal Injury
- ☐ 5. Motor Vehicle Personal Injury
- ☒ 6. Other Personal Injury (Please specify) FALL
- ☐ 7. Products Liability
- ☐ 8. Products Liability - Asbestos
- ☐ 9. All other Diversity Cases
(Please specify) _____

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, Joseph Schwartz, counsel of record or pro se plaintiff, do hereby certify☒ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:☐ Relief other than monetary damages is soughtDATE 10/18/18

Attorney-at-Law / Pro Se Plaintiff

Attorney I D # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

CASE MANAGEMENT TRACK DESIGNATION FORM

MARY ANN HRINKO

CIVIL ACTION

v.

MARRIOTT INTERNATIONAL AL, INC.

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

10-17-18
Date

Attorney-at-law

PLAINTIFF
Attorney for

610-658-1900
Telephone

610-658-0668
FAX Number

JSCHWARTZ @
SILVERANDSILVER.COM
E-Mail Address

SILVER & SILVER

By: Joseph F. Schwartz, Esquire

Identification No.: 87550

42 W. Lancaster Ave., Third Floor

Ardmore, PA 19003

(610) 658 – 1900

JURY TRIAL DEMANDED

Attorney for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MARY ANN HRINKO	:	Civil Action
v.	:	No.
MARRIOTT INTERNATIONAL, INC.	:	

**CIVIL ACTION COMPLAINT
PREMISES LIABILITY**

1. Plaintiff Mary Ann Hrinko (hereinafter referred to as “Plaintiff”) is an adult individual residing at 634 Laurel Street, Dickson City, PA 18519 and is a resident and citizen of Pennsylvania.
2. Defendant Marriott International, Inc. (hereinafter “Defendant”) is a Delaware Corporation, with its headquarters at 10400 Fernwood Road, Bethesda, Maryland 20817.
3. Venue is proper because Defendant continuous and systematic affiliations in the Eastern District of Pennsylvania and can be served here at its regular place of business, a hotel which it operates at 21 N Juniper St, Philadelphia, PA 19107.
4. Venue is proper because the amount in controversy is in excess of \$150,000, exclusive of interests and costs.
5. Venue is proper because Plaintiff is a citizen of Pennsylvania and there is complete diversity of citizenship between the Plaintiff and Defendant in this matter.
6. Defendant registered itself with the Pennsylvania Corporations Bureau to do business in the Commonwealth of Pennsylvania.

7. Pursuant to 42 Pa.C.S.A. Section 5301(a)(2), by registering to do business in the Commonwealth of Pennsylvania, Defendant has consented to general personal jurisdiction in Pennsylvania.
8. At all times material hereto, Defendant owned, managed, operated, possessed, maintained, and/or controlled a hotel located at 1212 Pacific Ave, Atlantic City, NJ 08401 (hereinafter referred to as “the premises”).
9. At all times material hereto, the premises held itself out to the public as the Courtyard by Marriott Atlantic City.
10. At all times material hereto, the premises was at all times material hereto featured on the Marriott.com website, which is controlled by Defendant.
11. Defendant is a leading global lodging company with more than 6,700 properties.
12. The premises was at all times material hereto one of Defendant’s properties.
13. At all times material hereto, Defendant acted and/or failed to act by and through its employees, agents, servants, and/or representatives, who were acting within the course and scope of their employment and on behalf of Defendant.
14. On or about July 12, 2018, Plaintiff was a paying hotel guest on the premises.
15. Plaintiff chose to stay on the premises because it was marketed to the public as part of the Marriott brand, which she trusted based upon its reputation, history and advertising to the public.
16. Plaintiff is a disabled individual and uses a wheelchair for mobility.
17. Plaintiff had requested that Defendant provide her with a room designed to accommodate disabled guests.
18. Defendant was aware of Plaintiff’s disability when they provided her with a hotel room.

19. Defendant provided Plaintiff with a room which they had told her was designed to accommodate disabled guests (hereinafter “the room”).
20. The bed in the room was too high to be safely used by Plaintiff.
21. The room was not compliant with applicable Federal regulations pertaining to hotel accommodations for disabled guests.
22. Due of Defendant’s failure to comply with applicable Federal regulations the bed in the room was too high to be safely used by Plaintiff.
23. Defendant’s decision to violate applicable Federal regulations regarding the height of the bed in the disabled access hotel room provided to Plaintiff created a foreseeable risk of harm to Plaintiff.
24. Because the bed was too high, Plaintiff fell while trying to get into the bed.
25. Because of this fall, Plaintiff suffered serious injuries, including, but not limited to a hematoma in her left leg which required surgical intervention, hospitalization for more than a week, inpatient rehabilitation for more than two weeks and has resulted in sepsis and cellulitis requiring additional in-patient hospitalization.
26. At all times material hereto, Plaintiff was a business invitee lawfully upon Defendant’s premises.
27. At all times material hereto, Defendant owed a duty to Plaintiff to keep the premises free from unreasonable or hazardous conditions.
28. At all times material hereto, Defendant owed a duty to Plaintiff to follow applicable Federal regulations applicable to the accommodation of disabled individuals.
29. At all times material hereto, Defendant owed a duty to Plaintiff to make sure that they did not negligently injure hotel guests.

30. Defendant knew or should have known that their actions would create a risk of harm to Plaintiff.
31. This accident was reasonably foreseeable to Defendant and could have been prevented if Defendant had taken reasonable actions.
32. Defendant's breach of its duty to Plaintiff caused this accident.
33. At all times material hereto, Plaintiff acted in a reasonable and prudent manner and was free from any comparative negligence.
34. At all times material hereto, Plaintiff did not assume the risk of her injuries.
35. The aforementioned incident and resulting injuries and/or damages sustained by Plaintiff directly and proximately resulted from the negligence of Defendant, whose conduct consisted, in addition to the facts stated elsewhere in the complaint, of the following:
 - (a) Putting a bed in the room which was too high to be safely used by individuals with disabilities, including Plaintiff;
 - (b) putting a bed in the room which violated applicable Federal safety regulations;
 - (c) failing to adequately train employees in safety standards for disabled guests, including Plaintiff;
 - (d) failing to conduct a reasonable investigation to identify the hazardous condition of the bed;
 - (e) failing to act when Defendant received prior complaints about the safety of the beds in their disabled accommodation rooms;
 - (f) failing to inspect the bed in the room to make sure it was safe for individuals with disabilities, including Plaintiff;

- (g) failing to inspect the bed in the room to make sure it complied with applicable Federal safety standards;
- (h) failing to implement policies and practices for accommodating disabled hotel guests safely;
- (i) failing to regard the rights, safety, and position of Plaintiff in and about the area of the aforementioned accident;
- (j) failing to take reasonable care in the area where Plaintiff fell so as to lessen or eliminate the hazardous and dangerous condition caused by the bed;
- (k) failing to inspect and maintain the premises, and correct the hazardous condition of the bed;
- (l) failing to warn the public, in general, and Plaintiff, in particular, of the dangerous and hazardous condition caused by the aforementioned bed;
- (m) failing to post adequate warning signs, barriers, and/or barricades in an effort to alert business invitees/licensees of the dangerous conditions which existed; and
- (n) failing to take affordable and reasonable measures to make the hazard safe.

36. As a result of Defendant's negligent conduct, as described above, Plaintiff has suffered and in the future will continue to suffer great pain, agony, mental anguish, and loss of life's pleasures and has been and in the future will be hindered from fully participating in her usual daily activities.

37. As a result of Defendant's negligent conduct, as described above, Plaintiff has suffered and in the future will continue to suffer pain and suffering; disability/impairment; loss of enjoyment of life; and disfigurement.

38. As a result of Defendant's negligent conduct, as described above, Plaintiff has been and may in the future be compelled to expend large sums of money for physicians, medicine, diagnostic tests, and the like, in an effort to permanently and thoroughly cure herself of the injuries and suffering which were brought about as a result of Defendant's actions.
39. As a further result of Defendant's negligent conduct, as described above, Plaintiff has incurred and will in the future continue to incur financial expenses or losses, which exceed or will exceed the amount which she may otherwise be entitled to recover.

COUNT I – NEGLIGENCE
Plaintiff v. Marriott International, Inc.

40. The preceding paragraphs are incorporated by reference as if fully set forth below.

WHEREFORE, Plaintiff Mary Ann Hrinko respectfully requests this Honorable Court to enter a judgment in her favor and against Defendant Marriott International, Inc. in an amount in excess of one hundred fifty thousand (\$150,000.00) dollars in addition to interests, costs, and delay damages to the full extent available under the law

SILVER & SILVER

By: 
Joseph F. Schwartz, Esquire
Attorney for Plaintiff

Date: October 17, 2018